

This is not the official court record. Official records of court proceedings may only be obtained directly from the court maintaining a particular record.

Charlie Brian Cole, Jr. v. Caesars Riverboat Casino, LLC

Case Number	22D03-2107-CT-000883
Court	Floyd Superior Court 3
Type	CT - Civil Tort
Filed	07/13/2021
Status	07/13/2021 , Pending (active)

Parties to the Case

Defendant Caesars Riverboat Casino, LLC

Plaintiff Cole Jr., Charlie Brian

Attorney

Amy Rebecca Wheatley
#2593710, Retained

Stein Law
810 East Market St
New Albany, IN 47150
812-948-6000(W)

Chronological Case Summary

07/13/2021	Case Opened as a New Filing
07/13/2021	Complaint/Equivalent Pleading Filed
	Complaint
	Filed By: Cole, Charlie Brian JR
	File Stamp: 07/13/2021
07/13/2021	Subpoena/Summons Filed
	Summons to Caesars - cert mail
	Filed By: Cole, Charlie Brian JR
	File Stamp: 07/13/2021
07/13/2021	Appearance Filed
	Appearance of Amy Wheatley
	For Party: Cole, Charlie Brian JR
	File Stamp: 07/13/2021

07/13/2021 **Summons**Requested By:

Cole JR, Charlie Brian

Parties:

Caesars Riverboat Casino, LLC

Status:

Served

Served:

07/14/2021

Anticipated Method:

Registered or Certified Mail

Serving Method:

Registered or Certified Mail

Returned:

08/04/2021

Comment:*efiled*08/04/2021 **Certificate of Service - separately filed**

20210804_080358.pdf

20210804_080404.pdf

Notice of Service

Filed By:

Cole, Charlie Brian JR

File Stamp:

08/04/2021

Financial Information

* Financial Balances reflected are current representations of transactions processed by the Clerk's Office. Please note that any balance due does not reflect interest that has accrued – if applicable – since the last payment. For questions/concerns regarding balances shown, please contact the Clerk's Office.

Cole Jr., Charlie Brian

Plaintiff

Balance Due (as of 08/04/2021)

0.00**Charge Summary**

Description	Amount	Credit	Payment
Court Costs and Filing Fees	157.00	0.00	157.00

Transaction Summary

Date	Description	Amount
07/13/2021	Transaction Assessment	157.00
07/13/2021	Electronic Payment	(157.00)

This is not the official court record. Official records of court proceedings may only be obtained directly from the court maintaining a particular record.

IN THE FLOYD SUPERIOR COURT NO. 3

CHARLIE BRIAN COLE, JR.,)	STATE OF INDIANA
)	
Plaintiff,)	
)	
vs.)	CASE NO. _____
)	
CAESARS RIVERBOAT CASINO, LLC)	
d/b/a Caesars Southern Indiana)	
f/k/a Horseshoe Southern Indiana and/or)	
Horseshoe Casino Hotel,)	
Southern Indiana)	
)	
Defendant.)	

APPEARANCE
(Initiating Party)

1. Name of First Initiating Party: **CHARLIE BRIAN COLE, JR.**
2. Attorney Information:

Amy R. Wheatley	Attorney No. 25937-10
810 E. Market Street	Telephone: (812) 948-6000
New Albany, IN 47150	Fax: (812) 948-6292
amy.wheatley@steinlawoffices.com	
3. Case Type: Civil Tort
4. Will Plaintiff accept FAX service: No
5. Are there related cases? No.
6. Additional information required by state or local rule: None

/s/ Amy R. Wheatley

IN THE FLOYD SUPERIOR COURT NO. 3

STATE OF INDIANA

CHARLIE BRIAN COLE, JR.,)	
)	
Plaintiff,)	
)	
vs.)	CASE NO. _____
)	
CAESARS RIVERBOAT CASINO, LLC)	
d/b/a Caesars Southern Indiana)	
f/k/a Horseshoe Southern Indiana and/or)	
Horseshoe Casino Hotel,)	
Southern Indiana)	
)	
Defendant.)	

COMPLAINT

Plaintiff, Charlie Brian Cole, by and through his counsel, states as his Complaint against Defendant Caesars Riverboat Casino, LLC d/b/a Caesars Southern Indiana f/k/a Horseshoe Southern Indiana/Caesars Indiana, Caesars Entertainment, Inc. merged with Eldorado Resorts, as follows:

1. Plaintiff, Charlie Brian Cole is a resident of Harrison County, Indiana and brings this action on behalf of himself.

2. The Defendant, Caesars Riverboat Casino, LLC d/b/a Caesars Southern Indiana f/k/a Horseshoe Southern Indiana/Caesars Indiana is an Indiana Limited Liability Co. operates as a casino hotel in Elizabeth, Harrison County, Indiana at 11999 Casino Drive, SE.

3. At the time of the events of the Complaint herein Caesars Riverboat Casino d/b/a Horseshoe Southern Indiana was at all relevant times in possession of a beer, wine, and liquor gaming site license issued by the Indiana Alcohol & Tobacco Commission Number GS3126208.

4. At all material times, Defendant Caesars Riverboat Casino, LLC d/b/a Caesars Southern Indiana f/k/a Horseshoe Southern Indiana includes any and all parents, subsidiaries,

affiliates, divisions, franchises, partners, joint ventures, and organization units of any kind, predecessors, successors and assigns and their offices, directors, employees, agents, representatives, and any other persons acting on their behalf (all hereinafter “Defendant Horseshoe Southern Indiana”).

5. Jurisdiction and venue are proper as the event giving issue to Plaintiff’s Complaint occurred in Floyd County, Indiana and the amount in controversy exceeds the minimal jurisdiction required of this Court.

6. On or about July 29, 2019, before approximately 10:00 p.m., Defendant Horseshoe Southern Indiana located at 11991 Casino Center Drive, SE, Elizabeth, Indiana by and through its employees, agent or assigns negligently served patron Susan Riley, when they knew or should have known that she was intoxicated.

7. Defendant Horseshoe Southern Indiana by and through its employees knew or should have known that patron Susan Riley was intoxicated and presented an unreasonable danger to the public yet continued to serve, and/or fail to supervise patron Susan Riley while she was already visibly intoxicated.

8. Immediately after leaving the Defendant Horseshoe Southern Indiana’s establishment, patron Susan Riley entered into her vehicle and was traveling on State Road 111 S near Seven Mile Lane in Floyd County, Indiana when she negligently, carelessly, and recklessly failed to control the location and speed of her vehicle, causing it to cross the center line, and violently strike Plaintiff’s vehicle head on resulting in personal injuries, harms, losses, and damages to the Plaintiff.

9. Upon information and belief patron Susan Riley was operating her vehicle while under the influence of alcohol in violation of I.C. 9-30-5-2 as well as I.C. 9-30-5-4.

STATUTORY LIABILITY

Plaintiff incorporates by reference all prior allegations contained in this Complaint.

10. At all relevant times, Defendant owed a duty to comply with all applicable statutes, regulations and rules related to imposing liability and liquor licenses for serving obviously intoxicated patrons.

11. Defendant breached this duty when it failed to comply with such statutes regulating, and rules regarding imposing liability when he/she furnishes alcohol to an obviously intoxicated patron as required by the Indiana Dram Shop Act, I.C. 7.1-5-10-15-15.5.

12. Plaintiff was within the class of persons whom the above referenced statute was meant to protect.

13. Defendant's failure to comply with the above referenced statute created the type of motor vehicle accident as described above which the law was designed to protect.

14. Defendant's failure to comply with the above referenced statute was a direct and proximate cause of decedent's injuries and death and this constitutes negligence per se.

NEGLIGENCE

Plaintiff incorporates by reference all prior allegations contained in this Complaint.

15. Defendant sold alcoholic beverages to patron, Susan Riley, at a time when Defendant knew, or in the exercise of reasonable care, should have known that patron, Susan Riley, was intoxicated.

16. Defendant's sale of alcoholic beverages and failure to promptly observe, recognize, and supervise the actions of patron, Susan Riley, was negligent and the proximate cause of patron, Susan Riley's, intoxication and her failure to keep her vehicle under proper control.

NEGLIGENT HIRING AND RETENTION

Plaintiff incorporates by reference all prior allegations contained in this Complaint.

17. Defendant owed Plaintiff a duty to exercise reasonable care in hiring, retention and suspension of its agents, servants, employees, and/or patrons.

18. Defendant knew or should have known of the dangers of serving alcohol to intoxicated persons, in failing to supervise the control of intoxicated patrons, and its need to adequately protect the public from such intoxicated and/or impaired persons by proper hiring, training, retention, and supervision of its agents, servants, employees, and/or patrons.

19. Defendant breached its duty by failing to exercise due care in the hiring, training, retention, and supervision of its bartenders, servers, and patrons.

20. As a proximate and foreseeable consequence of Defendant's breach of duty, including its agents, servants, and/or employees, in continuing to serve patron Riley, then allowing her to leave the premises and get behind the wheel of a motor vehicle, all of which were negligent acts in failing to prevent an intoxicated/impaired, negligent, and reckless driver such as patron, Susan Riley, from ever leaving the premises in such an inebriated state directly contributed to the Plaintiff's resultant damages as well as the death of patron, Susan Riley.

WHEREFORE, Plaintiff, Charlie Brian Cole, Jr., demands judgment against the Defendant, Horseshoe Southern Indiana, for a reasonable amount to compensate him for his damages and for all other relief in the premises.

/s/Amy R. Wheatley
Amy R. Wheatley, #25937-10
STEIN LAW
810 E. Market Street
New Albany, IN 47150
(812) 948-6000
amy.wheatley@steinlawoffices.com
Counsel for Plaintiff

IN THE FLOYD SUPERIOR COURT NO. 3

STATE OF INDIANA
CHARLIE BRIAN COLE, JR.,
Plaintiff,
vs.
CAESARS RIVERBOAT CASINO, LLC
d/b/a Caesars Southern Indiana
f/k/a Horseshoe Southern Indiana and/or
Horseshoe Casino Hotel,
Southern Indiana
Defendant.

CASE NO. _____

SUMMONS

THE STATE OF INDIANA TO DEFENDANT: CAESARS RIVERBOAT
CASINO, LLC
ADDRESS: Registered Agent: Corporation Service Company
135 North Pennsylvania Street, Suite 1610
Indianapolis, IN 46204

You have been sued by the person(s) named "Plaintiff", in the Court stated above.
The nature of the suit against you is stated in the Complaint which is attached to
this summons. It also states the demand which the Plaintiff has made against you.

You must answer the Complaint in writing to be filed with the Court, by you or
your attorney, within twenty (20) days, commencing the day after you receive this summons,
(you have twenty-three (23) days to answer if this summons was received by mail), or judgment
will be entered against you for what the Plaintiff has demanded.

If you deny the demand and/or have a claim for relief against the Plaintiff arising
from the same transaction or occurrence, you must assert it in your written answer.

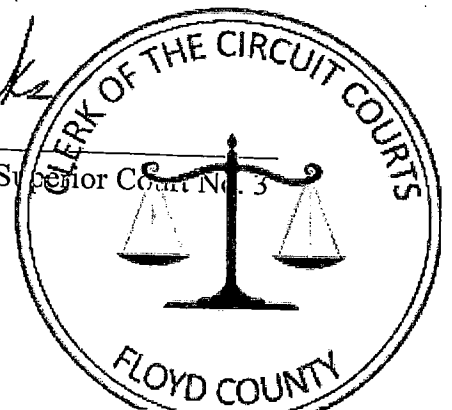
It is suggested that you consult with an attorney of your choice regarding this
matter.

The following manner of service of summons is hereby designated: **Certified**
Mail, Return Receipt Requested.

Dated: 7/13/2021

Danita Burks

Clerk, Floyd Superior Court No. 3



IN THE FLOYD SUPERIOR COURT NO. 3

STATE OF INDIANA
CHARLIE BRIAN COLE, JR.,)
)
Plaintiff,)
)
vs.) CASE NO. 22D03-2107-CT-000883
)
CAESARS RIVERBOAT CASINO, LLC)
d/b/a Caesars Southern Indiana)
f/k/a Horseshoe Southern Indiana and/or)
Horseshoe Casino Hotel,)
Southern Indiana)
)
Defendant.)

NOTICE OF SERVICE

Comes now the Plaintiff by Counsel, and states that service was accomplished on the as made evident by the enclosed Certified Mail Receipt labeled "Exhibit A."

Dated: 8/4/21

/S/ Amy R. Wheatley
Amy R. Wheatley, #25937-10
STEIN LAW
810 E. Market St
New Albany, IN 47150
(812)948-6000
amy.wheatley@steinlawoffices.com
Counsel for Plaintiff



[FAQs >](#)

[Track Another Package +](#)

Tracking Number: 70201290000044746835

[Remove X](#)

Your item was delivered at 9:49 am on July 16, 2021 in INDIANAPOLIS, IN 46204.



July 16, 2021 at 9:49 am
INDIANAPOLIS, IN 46204

[Feedback](#)

Text & Email Updates



Tracking History



July 16, 2021, 9:49 am

Delivered

INDIANAPOLIS, IN 46204

Your item was delivered at 9:49 am on July 16, 2021 in INDIANAPOLIS, IN 46204.

July 16, 2021, 9:18 am

Arrived at Post Office

INDIANAPOLIS, IN 46204

July 16, 2021, 7:29 am

Out for Delivery

INDIANAPOLIS, IN 46204

July 15, 2021, 7:54 pm

Departed USPS Regional Facility

INDIANAPOLIS IN DISTRIBUTION CENTER

July 15, 2021, 8:59 am

Arrived at USPS Regional Facility

INDIANAPOLIS IN DISTRIBUTION CENTER

July 14, 2021, 9:34 pm

Arrived at USPS Regional Facility

LOUISVILLE KY DISTRIBUTION CENTER

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FAQs

IN THE FLOYD COUNTY SUPERIOR COURT NO. 3
STATE OF INDIANA

CHARLIE BRIAN COLE, JR.,

PLAINTIFF,

VS.

CAESARS RIVERBOAT CASINO, LLC
d/b/a Caesars Southern Indiana
f/k/a Horseshoe Southern Indiana and/or
Horseshoe Casino Hotel, Southern Indiana,

DEFENDANT

)
)
) **CASE NO. 22D03-2107-CT-000883**
) *Electronically Filed*
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E-FILING APPEARANCE BY ATTORNEY IN CIVIL CASE

1. The party on whose behalf this form is being filed is:

Initiating _____ Responding X Intervening _____ ; and

the undersigned attorney and all attorneys listed on this form now appear in this
case for the following parties:

Name of party: Caesars Riverboat Casino, LLC d/b/a Caesars Southern Indiana
f/k/a Horseshoe Southern Indiana and/or Horseshoe Casino Hotel, Southern Indiana

Address of party: 11999 Casino Center Drive Elizabeth, IN 47117

Telephone number of party: 1-866-676-7463

2. The attorneys response for the representation of the above identified initiating
party is:

Name: Douglas P. Dawson

Attorney No. 29645-22

Address: Walters Richardson, PLLC
920 Lily Creek Rd., Ste. 102
Louisville, KY 40243

Telephone No.: 502-785-9090
Fax No.: 502-742-0326
Email: Doug@WaltersRichardson.com

3. Undersigned certifies that the contact information listed on the Indiana Supreme Court Roll of Attorneys for each attorney is current and accurate as of the date the appearance is filed.

4. Undersigned acknowledges that all orders, opinions, notices and all documents served under Trial Rule 86(G) will be sent to the attorney at the email address(es) on the Indiana Roll of Attorneys regardless of other contact information supplied by the attorney; and

Undersigned acknowledges that it is their sole responsibility for keeping their contact information with the Indiana Roll of Attorneys accurate per Ind. Admis. Disc. R. 2(A).

Respectfully submitted,

WALTERS RICHARDSON, PLLC

/s/ Douglas P. Dawson

Douglas P. Dawson (Bar #: 29645-22)
920 Lily Creek Road, Suite 102
Louisville, Kentucky 40243
Telephone: (502) 785-9090
Facsimile: (502) 742-0326
Email: Doug@WaltersRichardson.com

COUNSEL FOR DEFENDANT,
CAESARS RIVERBOAT CASINO, LLC D/B/A
CAESARS SOUTHERN INDIANA F/K/A
HORSESHOE SOUTHERN INDIANA AND/OR
HORSESHOE CASINO HOTEL, SOUTHERN
INDIANA

CERTIFICATE OF SERVICE

This is to certify that the foregoing has been served on the following on the 4th day of August, 2021 via the Indiana E-Filing System:

Amy R. Wheatley
Stein Law
810 East Market Street
New Albany, IN 47150
amy.wheatley@steinlawoffices.com
Counsel for Plaintiff

/s/ Douglas P. Dawson

COUNSEL FOR DEFENDANT,
CAESARS RIVERBOAT CASINO, LLC D/B/A
CAESARS SOUTHERN INDIANA F/K/A
HORSESHOE SOUTHERN INDIANA AND/OR
HORSESHOE CASINO HOTEL, SOUTHERN
INDIANA

IN THE FLOYD COUNTY SUPERIOR COURT NO. 3
STATE OF INDIANA

CHARLIE BRIAN COLE, JR.,

PLAINTIFF,

VS.

CAESARS RIVERBOAT CASINO, LLC

d/b/a Caesars Southern Indiana

f/k/a Horseshoe Southern Indiana and/or

Horseshoe Casino Hotel, Southern Indiana,

DEFENDANT

)
)
) **CASE NO. 22D03-2107-CT-000883**
) *Electronically Filed*
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NOTICE OF FILING NOTICE OF REMOVAL

Please take notice that, pursuant to 28 U.S.C. § 1446(d), Defendant, Caesars Riverboat Casino, LLC d/b/a Caesars Southern Indiana f/k/a Horseshoe Southern Indiana and/or Horseshoe Casino Hotel, Southern Indiana, has on this 4th day of August 2021 removed this action by filing a Notice of Removal in the United States District Court for the Southern District of Indiana, New Albany Division, together with a complete copy of all process, pleadings, and orders served upon these Defendant in the state court action as of the date of the filing of the removal. A complete, true, and correct copy of such Notice of Removal, without exhibits, is attached hereto as Exhibit A.

Respectfully submitted,

WALTERS RICHARDSON, PLLC

/s/ Douglas P. Dawson

Douglas P. Dawson (Bar #: 29645-22)
920 Lily Creek Road, Suite 102
Louisville, Kentucky 40243
Telephone: (502) 785-9090
Facsimile: (502) 742-0326
Email: Doug@WaltersRichardson.com
COUNSEL FOR DEFENDANT,
CAESARS RIVERBOAT CASINO, LLC D/B/A
CAESARS SOUTHERN INDIANA F/K/A
HORSESHOE SOUTHERN INDIANA AND/OR
HORSESHOE CASINO HOTEL, SOUTHERN
INDIANA

CERTIFICATE OF SERVICE

This is to certify that the foregoing has been served on the following on the 4th day of August, 2021 via the Indiana E-Filing System:

Amy R. Wheatley
Stein Law
810 East Market Street
New Albany, IN 47150
amy.wheatley@steinlawoffices.com
Counsel for Plaintiff

/s/ Douglas P. Dawson

COUNSEL FOR DEFENDANT,
CAESARS RIVERBOAT CASINO, LLC D/B/A
CAESARS SOUTHERN INDIANA F/K/A
HORSESHOE SOUTHERN INDIANA AND/OR
HORSESHOE CASINO HOTEL, SOUTHERN
INDIANA

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF INDIANA
AT NEW ALBANY

CHARLIE BRIAN COLE, JR.,

PLAINTIFF

VS.

CAESARS RIVERBOAT CASINO, LLC
d/b/a Caesars Southern Indiana
f/k/a Horseshoe Southern Indiana and/or
Horseshoe Casino Hotel, Southern Indiana,

DEFENDANT

Electronically Filed
CASE NO. 4:21-cv-__-__

NOTICE OF REMOVAL

Comes the Defendant, Caesars Riverboat Casino, LLC d/b/a Caesars Southern Indiana f/k/a Horseshoe Southern Indiana and/or Horseshoe Casino Hotel, Southern Indiana (“Caesars”), by counsel, for its Notice of Removal from the Floyd Superior Court to this Court pursuant to 28 U.S.C. § 1332, 1441, 1446, hereby files this Notice of Removal. As ground for removal of this action, Caesars respectfully states as follows:

1. On July 13, 2021, the Plaintiff, Charlie Brian Cole, Jr. (“Plaintiff”), commenced this civil action against Caesars in the Floyd Superior Court, designated therein as Civil Action No. 22D03-2107-CT-000883. True and complete copies of the process, pleadings, and orders served upon and filed by all parties in this action are attached as **Exhibit 1**.

2. This Court has jurisdiction over this matter pursuant to 28 U.S.C. § 1332 (a) and (b) because there is diversity of citizenship between the parties and the total amount claimed by Plaintiff exceeds the jurisdictional minimum of \$75,000, though Defendant denies liability to Plaintiff’s claims for damages.

EXHIBIT A

3. The amount in controversy exceeds \$75,000, exclusive of interest in costs.

4. Plaintiff is citizen of Indiana.

5. Pursuant to *Cosgrove v. Bartolotta*, 150 F.3d 729, 731 (7th Cir. 1998), “the citizenship of an LLC for purposes of the diversity jurisdiction is the citizenship of its members.” Pursuant to 28 U.S.C. § 1332 (c)(1), a corporation shall be deemed a citizen of its state of incorporation and the state where it has its principal place of business.

6. Caesars Riverboat Casino, LLC is wholly owned by and has as its sole member Roman Holding Company of Indiana, LLC. Roman Holding Company of Indiana, LLC is wholly owned by and has as its sole member Caesars World, LLC. Caesars World, LLC is wholly owned by and has as its sole member CEOC, LLC. CEOC, LLC is wholly owned by and has as its sole member Caesars Resort Collection, LLC. Caesars Resort Collection, LLC is wholly owned by and has as its sole member Caesars Growth Partners, LLC. Caesars Growth Partners, LLC is wholly owned by and has as its sole member Caesars Holdings, Inc. Caesars Holdings, Inc. is incorporated in Delaware and has its principal place of business in the State of Nevada. Therefore, Caesars Riverboat Casino, LLC is a citizen of Delaware and Nevada.

7. This action arises from an automobile accident that occurred on July 29, 2019. The Complaint alleges that Plaintiff was injured in an automobile accident caused by another driver, who the Plaintiff alleges was overserved alcohol at a property owned and operated by Caesars.

8. This action is removable to this District Court pursuant to 28 U.S.C. § 1441(a). This District and Division constitute the appropriate forum to which this action should be removed. The Floyd Superior Court is within the New Albany Division.

9. Venue is vested in this Court pursuant to 28 U.S.C. § 1391 since this is a civil action where jurisdiction is founded on diversity of citizenship and the events complained of occurred in the Southern District of Indiana.

10. Pursuant to 28 U.S.C. § 1446(b), removal must be filed within thirty days after receipt of the initial pleadings setting forth the claim for relief.

11. The Notice tendered herewith is being filed on August 4, 2021, within thirty days of the receipt of Plaintiff's Complaint, which was originally filed on July 13, 2021, thus making removal timely.

12. Written notice of the filing of this Notice of Removal, the exhibits thereto, the Notice and Certificate were mailed to Plaintiff's counsel as of the date of this filing.

13. True and correct copies of the pleadings enumerated were filed with the Clerk of the Floyd Superior Court as of the date of this filing.

WHEREFORE, Defendants, request the removal of this action from the Floyd Superior Court to this Court for all other appropriate procedures.

Respectfully submitted,

WALTERS RICHARDSON, PLLC

/s/ Joshua J. Leckrone

Joshua J. Leckrone

920 Lily Creek Road, Suite 102

Louisville, Kentucky 40243

Telephone: (502) 785-9090

Facsimile: (502) 742-0326

Email: Josh@WaltersRichardson.com

COUNSEL FOR DEFENDANT,

CAESARS RIVERBOAT CASINO, LLC D/B/A

CAESARS SOUTHERN INDIANA F/K/A

HORSESHOE SOUTHERN INDIANA AND/OR

HORSESHOE CASINO HOTEL, SOUTHERN

INDIANA

CERTIFICATE OF SERVICE

This is to certify that the foregoing has been served on this the 4th day of August, 2021 by mailing a true and accurate copy to the following:

Amy R. Wheatley
Stein Law
810 East Market Street
New Albany, IN 47150
Counsel for Plaintiff

/s/ Joshua J. Leckrone
COUNSEL FOR DEFENDANT,
CAESARS RIVERBOAT CASINO, LLC D/B/A
CAESARS SOUTHERN INDIANA F/K/A
HORSESHOE SOUTHERN INDIANA AND/OR
HORSESHOE CASINO HOTEL, SOUTHERN
INDIANA

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